

DECISION MEMORANDUM

TO: COMMISSIONER KJELLANDER
COMMISSIONER RAPER
COMMISSIONER ANDERSON
COMMISSION SECRETARY
COMMISSION STAFF
LEGAL

FROM: JOHN R. HAMMOND JR.
DEPUTY ATTORNEY GENERAL

DATE: FEBRUARY 20, 2020

SUBJECT: PROPOSED ABANDONMENT OF A 0.76 SEGMENT OF EASTERN
IDAHO RAILROAD'S RAIL LINE; CASE NO. EIR-R-20-01.

On January 15, 2020, the Commission received correspondence from Eastern Idaho Railroad LLC ("EIRR" or "Company") proposing to abandon an approximately 0.64-mile segment of a railroad known generally as the "Old Butte Main Line" located in Idaho Falls, Idaho, from milepost 184.26 (near Yellowstone Highway at the junction with the Union Pacific Railroad Company), to milepost 184.90 (north of the grade crossing with W. Broadway Street (the "Line")).

On February 14, 2020, EIRR, filed additional correspondence with the Commission in this case, revising it proposed abandonment of a rail line. Specifically, EIRR proposes to abandon approximately a 0.76-mile segment of railroad located in Idaho Falls, Bonneville County, Idaho. Extending from milepost 184.14 (immediately southeast of the grade crossing with the Yellowstone Highway), to milepost 184.90 (north of the grade crossing with W. Broadway Street) (the "Line"). The Line traverses United States Postal Service ZIP Code 83402.

The Company indicated in its February 14, 2020, correspondence with the Commission that it will seek to use the expedited exemption process to abandon this rail line. *See* 49 C.F.R § 1152.50(d)(1). EIRR represents that no local traffic has moved over the Line for at least two (2) years, and overhead traffic (if any) can be diverted to other routes. The Company represents that the Line does not contain federally-granted rights-of-way and will be made available promptly to those requesting it.

Under Surface Transportation Board ("STB") procedures, once the exemption is filed, the STB will publish the notice in the Federal Register within 20 days. Unless stayed, the railroad may abandon the line 30 days after the notice is published in the Federal Register.

THE COMMISSION'S ROLE IN ABANDONMENTS

The STB is the federal entity with the authority to approve or deny railroad abandonments. However, *Idaho Code* § 62-424 provides that the Commission "shall schedule a public hearing on the proposed abandonment." The purpose of the state abandonment hearing is for the Commission to determine whether the abandonment would: (1) adversely affect the area being served; (2) impair the access of Idaho shippers to vital goods and markets; and (3) whether the rail line has the potential for profitability. If the Commission finds that the abandonment would adversely affect the area being served and the line has the potential for profitability, then the Commission may represent the State of Idaho in the STB abandonment proceeding.

STAFF RECOMMENDATION

The Commission Staff recommends that the Commission issue a notice of the intended abandonment and schedule a public hearing as required by *Idaho Code* § 62-424. Because the Company intends to use the exemption process, the abandonment may be effective in as little as 30 days from the time the notice is published in the Federal Register. In its February 14, 2020, correspondence the Company represents in will file the Notice of Exemption on or about February 24, 2020. Consequently, Staff recommends that the Commission schedule a telephonic public hearing to take place on March 10, 2020, at 2:00 p.m.

COMMISSION DECISION

Does the Commission wish to issue a Notice of Proposed Abandonment and schedule a telephonic public hearing to take place on March 10, 2020, at 2:00 p.m.?



John R. Hammond Jr.
Deputy Attorney General

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